

IN THE COURT OF APPEALS OF THE STATE OF IDAHO

Docket No. 36917

STATE OF IDAHO,)	2010 Unpublished Opinion No. 491
)	
Plaintiff-Respondent,)	Filed: June 2, 2010
)	
v.)	Stephen W. Kenyon, Clerk
)	
RANDALL MARK OSTERHOUT,)	THIS IS AN UNPUBLISHED
)	OPINION AND SHALL NOT
Defendant-Appellant.)	BE CITED AS AUTHORITY
)	

Appeal from the District Court of the Fifth Judicial District, State of Idaho, Twin Falls County. Hon. Randy J. Stoker, District Judge.

Order denying I.C.R. 35 motion for reduction of sentence, affirmed.

Molly J. Huskey, State Appellate Public Defender; Sarah E. Tompkins, Deputy Appellate Public Defender, Boise, for appellant.

Hon. Lawrence G. Wasden, Attorney General; Lori A. Fleming, Deputy Attorney General, Boise, for respondent.

Before LANSING, Chief Judge; GRATTON, Judge;
and MELANSON, Judge

PER CURIAM

Randall Mark Osterhout entered an *Alford*¹ plea to possession of a controlled substance, methamphetamine. I.C. § 37-2732(c)(1). In exchange for his guilty plea, an allegation that Osterhout was a persistent violator was dismissed. The district court sentenced Osterhout to a unified term of ten years, with a minimum period of confinement of two years, to run concurrent with an unrelated sentence. Osterhout filed an I.C.R. 35 motion, which the district court denied. Osterhout appeals.

¹ See *North Carolina v. Alford*, 400 U.S. 25 (1970).

A motion for reduction of sentence under I.C.R. 35 is essentially a plea for leniency, addressed to the sound discretion of the court. *State v. Knighton*, 143 Idaho 318, 319, 144 P.3d 23, 24 (2006); *State v. Allbee*, 115 Idaho 845, 846, 771 P.2d 66, 67 (Ct. App. 1989). In presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the motion. *State v. Huffman*, 144 Idaho 201, 203, 159 P.3d 838, 840 (2007). Upon review of the record, including the new information submitted with Osterhout's Rule 35 motion, we conclude no abuse of discretion has been shown. Therefore, the district court's order denying Osterhout's Rule 35 motion is affirmed.